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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,993	03/24/2004	Andrew Fikes	16113-764001/GP-089-04-U	9878

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EXAMINER	
BOVEJA, NAMRATA	

ART UNIT	PAPER NUMBER
3622	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/808,993	FIKES ET AL.	
	Examiner	Art Unit	
	NAMRATA BOVEJA	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 January 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) *1,14 and 28* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-13,15-27 and 29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to communication filed on 01/16/2008.

2. Claims 1, 14, and 28 have been cancelled. Claims 2-13, 15-27, and 29 are presented for examination.

3. Applicant's amendments to the claims have been entered and considered.

Claim Rejections - 35 USC § 112

4. The second paragraph of 35 U.S.C. 112 is directed to requirements for the claims:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention. There are two separate requirements set forth in this paragraph:
> (A) the claims must set forth the subject matter that applicants regard as their invention; and
> (B) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant.

5. Claims 2,15, and 29 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With reference to claims 2, 15, and 29, it is unclear how a scorer's measure of match is used to select an advertisement or if the measure of match is even used to select an advertisement, since the claim does not recite this specifically. Furthermore, it is unclear if the first part of the claim is referring to creating an advertisement and the last part of the claim is referring to scoring an existing advertisement using a measure of match. Appropriate clarification is required. Additionally, in claims 15 and 29, it is unclear if the last part of the claim is referring to providing the same ad creative that was created in the first part of the claim or if a different ad creative is being provided.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims *2-13, 15-27, and 29*, are rejected under U.S.C. 103(a) as being unpatentable over Wagner et al. (Patent Number 7,062,466 hereinafter Wagner) in view of the Internet Archives print out of the Yahoo! Classifieds webpage from January 26, 2004 (hereinafter Yahoo) and further in view of Radwin (Patent Number 7,007,074 hereinafter Radwin).

In reference to claims 2,15, *and 29,* Wagner teaches a method, system, *and apparatus for providing on-line advertising comprising: an advertising creative interface (Figure 8) for defining the appearance and content of an advertising creative using at least one of user inputs and stored data (col. 5 lines 54 to col. 6 lines 12, and Figure 3)*; an indexer to identify one or more advertisements relevant to a query, wherein the identified advertisements describe characteristics relevant to at least one item (col. 8 lines 37 to lines 56 and Figures 8 and 9); and a targeting component to provide the advertising creative associated with at least one such advertisement as Web-based content *on one or more targeted Web pages* (col. 8 lines 37 to lines 56 and Figures 8 and 9).

Wagner does not specifically teach including a hyperlink reference to the advertisement. Yahoo teaches including a hyperlink reference to the advertisement web page (see under heading of Featured Listings). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include a hyperlink reference to the advertisement web page to enable the presentation of detailed advertisement information for a product on the page directed to by the hyperlink.

Wagner doesn't specifically teach a scorer to score the advertisements based on *a measure of* match between the query and the characteristics of the identified advertisements. Radwin teaches a scorer to score the advertisements based on *a measure of* match between the query and the characteristics of the identified advertisements (col. 7 lines 41 to col. 8 lines 24, col. 8 lines 40-59, col. 9 lines 4-39, *col. 9 lines 65 to col. 10 lines 37,* col. 14 lines 20-29, and Figure 5). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include a scorer to score the advertisements based on *a measure of* match between the query and the characteristics of the identified advertisements to enable the presentation of most relevant advertising to the user first followed by the least relevant information to save the user time *in locating the most relevant advertising content*.

7. In reference to claims 3 and 16, Wagner does not specifically teaches a method and system, wherein at least some of the identified advertisements are ranked by the numerical score. Radwin teaches a system, wherein at least some of the identified

advertisements are ranked by the numerical score (col. 7 lines 41 to col. 8 lines 24, col. 8 lines 40-59, col. 9 lines 4-39, col. 14 lines 20-29, and Figure 5). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to rank some identified advertisements by the numerical score to enable the presentation of most relevant advertising to the user first followed by the least relevant information and to save the user time.

8. In reference to claims 4 and 17, Wagner does not teach a method and system further comprising: providing at least some of the advertisements as the Web-based content in response to selection of the hyperlink reference of the associated advertising creative. Yahoo teaches providing at least some of the advertisements as the Web-based content in response to selection of the hyperlink reference of the associated advertising creative, since it is inherent when a user clicks on the hyperlink for an advertisement, detailed information regarding the advertisement is presented to the user on the web (page 1 see the section titled featured listings). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include a selectable hyperlink reference to the advertisement to enable the presentation of detailed advertisement information for a product on the page directed to by the hyperlink.

9. In reference to claims 5 and 18, Wagner teaches the method and system further comprising: targeting the advertising creative by associating one or more query terms with the item description (i.e. associating ad with car model type) (col. 8 lines37-56 and Figures 8 and 9).

10. In reference to claims 6 and 19, Wagner teaches a method and system, further comprising: including at least part of the information in the advertising creative (col. 5 lines 54 to col. 6 lines 25, and Figure 3).

11. In reference to claims 7 and 20, Wagner teaches a method and system further comprising: an advertising creative generator to automatically generate the advertising creative from the information (col. 6 lines 57 to col. 7 lines 9, col. 8 lines 50-56, and Figures 4 and 9).

12. In reference to claims 8 and 21, Wagner teaches a method and a system further comprising: determining an advertising budget specifying compensation associated with the advertising creative (col. 6 lines 38 to col. 7 lines 9, col. 7 lines 66 to col. 8 lines 18, and Figures 3-5).

13. In reference to claims 9 and 22, Wagner teaches a method and system, wherein the advertising budget includes a budgeted compensation amount per unit of time (col. 6 lines 38 to col. 7 lines 9, col. 7 lines 66 to col. 8 lines 18, and Figures 3-5).

14. In reference to claims 10 and 23, Wagner teaches a method and system, further comprising: collecting compensation for on-line publication of the advertising creative in accordance with the advertising budget (i.e. it is inherent the advertiser's credit card is charged for the appropriate amount) (col. 5 lines 54-64 and Figure 3).

15. In reference to claims 12 and 25, Wagner teaches a method and system, wherein the item description comprises at least one of text, an image, price, contact information, and payment information (col. 5 lines 54 to col. 6 lines 56 and Figure 3).

16. In reference to claims 13 and 26, these dependent claims are further limiting the

alternative limitation of stored data comprising at least one of *directly accessible* data and a hyperlinked Web page, and since this alternative limitation *of* stored data was not selected from the independent claims *2* and *15*, the prior art still teaches the alternative limitation which was selected in claims *2* and *15* regarding creating an advertisement from at least on of user inputs, and therefore claims 13 and 26 do not need to be addressed as they pertain to the unselected alternative limitations of the independent claims.

17. In reference to claims 11 and 24, Wagner teaches providing an advertising budget (col. 6 lines 38 to col. 7 lines 9, col. 7 lines 66 to col. 8 lines 18, and Figures 3-5). Wagner does not specifically teach the advertising budget based on at least one of per impression of the formatted advertisement, per click of the formatted advertisement and by a conversion of the at least one item. Radwin teaches providing an advertising budget for a cost per impression basis (i.e. per 1,000 matches or views) (col. 1 lines 19-38). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include the advertising budget based on at least one of per impression of the formatted advertisement to enable the presentation of advertisement based on a per impression basis instead of just based on the amount of time or the type of device on which the advertisement will be displayed, and to therefore offer the advertiser an even more customized forum for advertising.

Response to Arguments

18. After careful review of Applicant's remarks/arguments filed on 01/16/2008, the Applicant's arguments with respect to claims 2-13, 15-27, and 29 have been fully

considered but are moot in view of the new ground(s) of rejection. Amendments to claims 2-13, 15-27, and 29 have been entered and considered.

19. Applicant argues that the newly added limitation of scoring advertisements based on a measure of match between the query and the characteristics of the identified advertisements is not taught by Radwin. The Examiner respectfully disagrees with the Applicant, since Radwin teaches the use of an importance weighting value based on external events or the significance of the advertisement (col. 9 lines 8-11) and selecting the advertisement that is the most appropriate (col. 9 lines 31-34 and col. 10 lines 17-20). Furthermore, as illustrated in Figure 5, different advertisements under the category of an ad type may have a different importance rating assigned to it, and this rating is used to determine which ad is first displayed to the user. However, just for the sake of the Applicant's argument, even if Radwin did not teach the feature of a measure of match as asserted by the Applicant, searching advertisements that match query terms is well known in the art of online advertising. For example, when a user searches for a keyword in a search engine, the most relevant advertisements are displayed to the user first based on the degree of match between the keyword searched and the keyword associated with the advertisement especially when on a given webpage there may be room to show just one advertisement at a time. Furthermore, companies such as Pentawave, Inc. (see attached article just for the Applicant's reference) utilize technology to provide a weighted, relevancy-ranked list of candidates who are seeking jobs, and therefore scoring based on a measure of match is well known.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The **FAX** number for the organization where this application or proceeding is assigned is **571-273-8300.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on accessing the Private PAIR system, contact the Electronic Business Center (EBC) at 1866-217-9197 (toll-free).

/N. B./

Examiner, Art Unit 3622

June 9, 2008

/Yehdega Retta/

Primary Examiner, Art Unit 3622